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ABSTRACT

American government response to the growth of radio, TV and now cable television (CATV) has been too little too late, to protect vested interests instead of to set long-range policies. A recent closed-door meeting called by the director of the Office of Telecommunications Policy of the White House, to talk about CATV regulation, was no exception. Representatives of CATV, broadcasting, movies, music and other industries, as well as the chairman of the FCC were all invited; but no one was invited to represent the six million subscribers. When the parlay was over, there was a CATV policy stripped of all its sinews except those which strengthen the status quo. S it's time for changes. A good start is to begin asking the right questions. For example, how should we handle pay-TV, and what should be the proper relationship between federal, state and local bodies concerned with regulating CATV? We should think about designating a half-dozen communities as wired city experiments, as a basis for hard information useful for long-range policy making. (MG)

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Ever since the first cat's whisker radio receiver, America has been fast talking itself through the communications revolution. Whether it be radio, color television, or satellites 25,000 miles in space, or the wired nation, we have permitted a tug-of-war between vested interest pressure groups to take the place of comprehensive planning. We have never looked beyond the next mercantile step. As a consequence, three generations of Americans have confused such improvisation for long-range policy.

No one has ever said this is what the system should be - by 1927 when the Federal Radio Board was established and there were 723 radio stations; or by 1960 when there were 4,600 radio and 562 television stations; or by 1980 when there will probably be a ganglia of inadequate, incompatible cable systems, perhaps tens of thousands of them. (There are 2,750 already.) And that is what has brought us to this thicket of overgrowth and underdevelopment we call telecommunications.

The doctrine of public policy via tug-of-war among special interests was enunciated with lucidity in a recent White House pronouncement. It didn't happen to be about cable television, but it might well have been:

> "It was concluded that Government policy should encourage and facilitate the development of commercial domestic satellite communications systems to the extent that private enterprise finds them economically and operationally feasible, but that there is no reason to call for the immediate establishment of a domestic satellite system as a matter of public policy..."

Obviously, we are going to have a domestic satellite system in this country, but it will be worked out as a deal, most of it behind closed doors, by the

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common carriers, COMSAT, and the commercial broadcasters. Alas, it has become the American way.

Item: The first radio station came into being in the early twenties because set manufacturers and department stores needed a demonstration signal so that potential consumers would have an incentive to buy receivers.

Item: The system went commercial in August 1922 because of the weird coincidence that a real estate developer in Jackson Heights, Long Island, had a surplus of garden apartments, when WEAF had a shortage of program material, and bought fifteen minutes on AT&T's New York station. When at week's end his apartments were sold out, the commercial was locked in. Actually the station management was against commercialization and sold ten minutes of air time for fifty dollars for the developer to talk about the joyous raptures of living in Jackson Heights. The availability of those apartments was just sort of woven into his presentation. But that's how commercials were born.

Item: The first networking occurred in 1922 because an eccentric millionaire, Hetty Green's son, improvised a radio station in South Dartmouth, Massachusetts, consisting mainly of loudspeakers on an 80-foot water tower. As an additive to his schedule, he leased a telephone line to relay some of the programs of a New York station to his local constituency. In 1923, when most fledgling radio stations closed down in honor of the funeral of President Warren Harding, Colonel Green's station, WMAF, brought in the funeral services live via WEAF, and that's how chain broadcasting of public affairs was invented. Later, a Providence station bought up some of Colonel Green's unused telephone circuit time, made a deal with AT&T for some of the WEAF sustaining service, and what was to be the NBC network had its first link.

Item: In the mid-30's, when much of the world was building public radio systems such as the BBC, the U.S. Congress and the FCC refused to set aside sufficient educational channels because, as one broadcast chief executive put it, "We...devote approximately 75% of our air time to public service, as contrasted with sponsored programs." He assured Congress that there would be no overloading of advertising matter. and that less than 1% of all his broadcast schedule would be devoted to commercials. There was no policy to match the promise, and the 1972 schedule for radio and television is a monument to that failure.

Item: The decision on color television was determined after a bitter confrontation between the rival inventions of Dr. Peter Goldmark of CBS and General David Sarnoff of RCA. After a generation of false starts, the General's system won a technical knockout, but,once again, it was a hassle between the vested interests rather than a policy decision ordered by creative scientists and regulators at the government level.

Item: The decisions for VHF over UHF were dictated by manufacturers of sets who, in essence, created a kind of electronic cartel that limited the number of channels on the dial that the average viewer could easily dial in a given city. After a series of freezes and thaws, in which many major population centers were denied essential channels, UHF was made a stepchild and received its paltry inheritance too late to have it really matter. Years later, public television was, and is, caught in this power struggle, and was left the legacy of having no VHF television outlets for almost forty per cent of its urban population, including such cities as Washington, Los Angeles and Detroit.

Item: The United States got into the satellite business because of the challenge of the Russian space program. Sputnik can be called the illegitimate sire of

Telstar, Early Bird and virtually every American satellite, because we belatedly made the decision to spend fifty billion dollars accepting the Soviet challenge. COMSAT was improvised because Congress and the FCC couldn't adjudicate the battle between AT&T and those in Congress and elsewhere, who wanted the public to share in the dividend, the technology they had financed. In the end of the day, a quasi-public corporation was created with Ma Bell and some other carriers and 122,000 stockholders, as the only real heirs to our space dividends. COMSAT is about as public as ITT or Bristol Myers, and 13 years after Telstar and seven years after Early Bird, we have no domestic satellite policy, virtually as a policy of the U.S. government.

Item: Cable - which Ralph Lee Smith called "the twentieth century's greatest second look" - sometimes called the wired city, and which could change television as much as television changed radio, was invented in the mountain areas of Pennsylvania because an imaginative entrepreneur erected towers so that he could hawk Philadelphia signals to his pastoral neighbors, who were being deprived of reception by the curvature of the earth. There might have been more powerful regional transmitters enabling virtually all American homes to have line-of-sight reception, but that might have encroached on certain theories of market protection.

In 1972 cable television is in more than six million homes, not all of them in rural areas; and CATV is the darling of the Wall Street bulls, the terror of the broadcasters and the enigma of the regulators, who sing its praises while wishing it wouldn't threaten the industries it is "supposed to protect." The fact that the FCC's mandate is to regulate those industries rather than protect them, is one of the lessons of the decline and fall of the regulatory agencies.

If one looks at the world's broadcast systems one can find that quality and long-range planning go hand in hand. The British and Japanese, to mention two of the best,

set long-range goals and priorities, and then survey the results with independent commissions every decade or so. Private industry is permitted to participate only within carefully defined parameters, which preclude overcommercialization and government interferences with programs. In effect, it keeps the government out of the newsroom and the stockholders out of the control room. That is why the BBC does 600 hours of original drama each year, while the three combined U. S. commercial networks do something like five.

The tragedy of cable television and our telecommunications policy in general, is that like Willie Loman in the other "Death of a Salesman", we go on making all the mistakes we promised ourselves we'd never make again.

A quarter of a century from now, when historians are sitting around reminiscing about 1972 and how we took the wrong turn in the road, they will zero in on the great closed-door arrangement, when the public and six members of the FCC were locked out, and ask: Did it really happen that way, or was it apocryphal? It really happened.

It happened this way. In the early seventies, the FCC, goaded on by concerned citizens and fearing that uninformed city fathers, eager for the fast buck to narrow their deficits, would give it all away, came up with a policy for cable television. It was written by dedicated staff members who were determined not to dissipate the opportunity. It was hammered into viable form by Commissioners as far apart as Dean Burch and Nicholas Johnson, which is something like Barry Goldwater and Julian Bond agreeing; and although the policy had its flaws, it was a plan to be reckoned with, and it provided a workable charter for the wired nation - particularly in the crucial regulations for distant signal importation.

Then the pressure groups moved their big guns into place. The Senate Commerce Subcommittee on Communications, responding to that pressure, asked

for a policy that all parties could agree to. So the interested parties were summoned to a closed-door powwow by the Director of the Office of Telecommunications Policy of the White House, Clay T. Whitehead. The cable operators came, the commercial broadcasters were represented by the citadel of special interest, the National Association of Broadcasters. Then came the lobbies for the copyright owners, the movie owners and the music publishers; and to represent the FCC, one-seventh of its body - the Chairman. Representing the six million CATV customers - no one. Representing the sixty million homes that might someday be cable consumers - no one.

When the parley was over - the covenant secretly arrived at by a head-to-head tug-of-war between all the vested interests - there was a cable policy, stripped of all its sinews, save those which strengthen the status quo. The once comprehensive plan for distant signals, so essential to cable's growth, but such an imagined threat to commercial broadcasters, was now cut back so that the station owners in the largest and richest markets were protected from the competition of those distant signals.

When the final package was brought back to the full Commission, its members were told: it's this deal or nothing; and if we miss the boat now, there may be no policy. Only two Commissioners dissented to part or all of the document, but, in fact, five of the seven members had reservations to the pact. Commissioner Charlotte Reid, in her concurring statement, put the rules, "Report and Order," as it is officially called, and the public interest into proper perspective:

> "While I do not find myself in complete accord with each and every item...the fact that these rules reflect the consensus agreement reached by the principal parties (cable television system owners, broadcasters and copyright owners) are far better than no rules at all. It, therefore, seems clearly in the public interest to give implementation to the compromise agreement..."

And in his dissenting opinion, Commissioner Robert E. Lee said:

> "...The new rules adopted (here) today bear little resemblance to the initial Commission proposals of December 1968 and July 1970 which initiated the proceedings from which this decision stems. The public has never been invited to comment on these new provisions and despite a massive record of written and oral comments much of what is done today can only be described as guesswork..."

In his concurring opinion Commissioner Robert T. Bartley wrote:

> "The largest broadcast stations and representatives of the copyright owners have again succeeded in preventing the development of cable in most of the largest markets, thus depriving receiving set owners of the opportunity to subscribe, if they wish, to enjoy clearer reception and additional services..."

The Chairman of the FCC, in defending the consensus agreement, stated that it was not a "sweetheart deal" forced by "the powerful broadcast industry," as Commissioner Nicholas Johnson had described it. The Chairman "proved" his point by assessing "the varying degrees with which the principals have decided to accept the disagreement...All had some reservations," Mr. Burch said, but "I would put the copyright owners first, cable second, and broadcasters a very distant third." Even if true, where was the public? An invisible, inaudible, fourth and last.

Commissioner Johnson called the proceedings "blackmail...a sell-out." Chairman Burch accused Johnson of acting "in the manner of a demagogue..." "Irresponsible." Ironically, one of the most able and effective chairmen in FCC history, and its most dynamic and articulate Commissioner, were caught in a self-made cross-fire that brought no honor to the Commission and played directly into the hands of those who believe that regulation is un-American, unless, of course, the rules cripple the future of cable.

When Chairman Burch explains the cable operators were reasonably satisfied, he ignores the reality that those attending that shot-gun ceremony were like early settlers, willing to deal away some long-range dreams in order to protect their short-term investment and keep rich territory from opening up too fast.

Burch and Johnson and their fellow commissioners had cooperated on a comprehensive plan that might have really opened up the territory, and provided Americans with the kind of telecommunications system they deserve. But the initiative was taken away from them and a majority of their names went on a document they did not originate.

The power brokers had prevailed over a well intentioned FCC, and it will be a generation before the public will really understand what happened to them. The Washington Post's account of the settlement was slugged: "FCC opens the door to let Cable TV into Major Cities." The same day the New York Times reported: "New Ruling on Cable TV restricts Big-City Growth."

Most newspapers and broadcast stations botched or ignored the story. After all it is a complex issue. It is my contention that with the possible exception of Vietnam and the cities, telecommunications is more important than any story the media covers, and it gives it short shrift. With a few notable exceptions, it is a story of neglect.

The problem of policy making is that the promise of cable is viewed as a threat by a broad consensus of negatives, who have the decided advantage of knowing what they are against, while those who believe in the dream of a wired nation have not really done enough hard work on how a system of wired cities interlaced by microwave or satellites could work. It is like convincing the town fathers that the Coney Island

concept ought to give way to the concept of Jones Beach or Yellowstone National Park, when they have only rhetoric with which to plead their case.

Actually, we have hardly begun to ask the right questions. Admiral Rickover once stopped an interview Ed Murrow and I were doing with him about nuclear reactors by announcing curtly: "Mr. Murrow, you don't even know how to ask the right questions." He may have been right. In 1972, for all the hard sell about cable, we still don't know how to ask the right questions concerning cable's growth in the cities, where line-of-sight obstacles make the purchase of cable service more a matter of a better picture with some additional programming, as opposed to the rural areas, where the cable connection is essential to any television service at all. But will half the homes in New York or Chicago really pay five or six dollars a month for cable? And how do we keep the disadvantaged from suffering the lack of still another necessity they cannot afford?

As you are all aware, under the new cable rules promulgated by the FCC on March 30, 1972, new franchises are required to have a 20-channel capacity, and must also provide equivalent bandwidth for each broadcast signal carried. We also know that some cable systems, such as the one Warner Communications is building in Akron, Ohio, have two-way capability with the capacity of 46 channels, but we have not begun to answer the question as to who will have access, or the more crucial problem of how can there be access without funds for programming. Even more important, no one has delineated the exact extent of the cable operator's authority to control use of excess channels, or the limits, if any, of his participation in those channels which will be used for pay cable.

On the delicate matter of pay cable, I think it is about time we bring this "unthinkable" prospect to the light of day for an intelligent, rational discourse, rather than one that gets beaten to death by the rhetoric of the combatants. I know of no subject other than Vietnam and women's lib that brings more heated, unreasoned debate than an argument about pay cable. And, let's not deceive ourselves - this will be one of the major elements in the development of cable television in this country. It is clear that it is this issue, among others, that is keeping TelePrompter stock where it is and has my friends down on Wall Street salivating over a new glamour industry to peddle.

I do not mean to say that pay cable does not present many difficult and complex public policy issues that require that the public be protected, because it clearly does. What I am saying is that we should settle that issue in the context of a sound regulatory policy that has the public in mind, and not in the throes of an emotional orgy with signs and petitions in movie theaters and the broadcast industry, and NATO (the National Association of Theater Owners) screaming that the public is about to be raped. Sound anti-syphoning rules should be adapted but only to protect the public, not to protect an economic basis of either the television or motion picture exhibition industries. Rates for sporting events and movies should be regulated, but within the confines of an economic structure that protects the public and allows the entrepreneur to develop a new industry.

It also seems to me that we have not asked the proper questions about jurisdiction and the roles that federal, state and local governments should play. For instance, the FCC's new rules, as I read them, allocate channels for certain specified uses - broadcasting, replication, public access, education, government and leased

channels. The Commission seems to be tapping the local governments out of channel designations. Is this really the right approach? What if the city of Akron decides it's nice that the FCC has allocated one channel for education, but they have determined that Akron requires five channels for educational purposes. The way the new rules read to me, Akron is prohibited from doing this. Perhaps what the Commission should be doing is setting minimal standards that allow each local community to make a better deal, if it can, for public service usage.

The question of state jurisdiction is also an issue. The big push in state legislation has been to put cable television under the jurisdicaion of the Public Service Commission or the Public Utilities Commission. This is what has been proposed in my home state of New York. Well, if anyone of you has been in the state lately, you know what a herculean effort it takes to make a phone call. Someone told me last week that he lived thirty-five minutes from New York City by phone. Should we be adding another impossible task to an already over-burdened institution? Here I must go along with the Sloan Commission. If the states get involved, let it be under some separate authority with its own expertise and experience that can develop a rational policy for this new industry. Such a plan was approved in Albany yesterday.

One could stand here all night and list questions such as rate regulation of leased channels, whose responsibility should that be. Again, as I read the rules the Commission seems to be taking on that one also. Does this really make sense? The Commission cannot even handle Ma Bell's long distance call rate structure. Do we really believe that the FCC will be able to cope effectively with the rates of leased channels in 3,000 or 4,000 different cable systems? One has to be slightly pessimistic at the prospect.

Even when we have developed the proper series of questions, the answers may not be forthcoming, despite all the learned studies and think tanks. The well-intentioned theorist goes into combat with one arm tied behind his back, when his opponent already has a going business, and that facile defense, "The public likes what they're getting right now."

The great value of Jones Beach and Yellowstone, like the Tennessee Valley Authority, is that they are working models and bench marks. If the wired city, as a protected preserve not just for entertainment, the arts, news and public affairs, but for education in and out of schools and for a new link between the citizen and his government, is to be more than just a "pie in the sky," we are going to need some working models.

What questions should we learn to ask, what responses would we develop, if as a nation we designated a half dozen communities as wired city experiments? Take Newark, for example, a city which has no VHF television station serving its unique needs, and which, for this and other reasons, can't communicate with itself. Make Newark an experiment. Wire it - every home, every school, every college, every business establishment. Let the people of Newark program that system in a two-way, open-ended experiment. My proposal is based on the theory that it will work only if every family has service, rather than just the affluent, who probably need it least. To accommodate such an experiment, free service for the first five years would have to be subsidized by federal, state and city governments, and private philanthropies. I call that public enterprise funding, and if we don't have such models to run tests with, we shall again end up with only those demonstrations that special interest dollars can afford.

I suggested Newark, but perhaps when we know the proper questions to ask, we may discover that we will find better answers in Washington, or Sacramento,

or Pawtucket, or Columbus, Indiana. A wired Washington could be a dazzling demonstration for the Congress and the entire nation.

Implicitly, such experiments would have to be studied and evaluated. My colleague, David Bell, of the Ford Foundation, calls evaluation "organized hindsight." Even our disorganized hindsight on fifty years of radio and television history suggests that letting the dollar be our only agenda-setter, leads to a mercantile thicket that cannot be undone.

But experimentation cannot proceed without caution. The next five years may provide the nation with a new opportunity to reorder its priorities in telecommunications. There will be a temptation in that struggle to confuse rhetoric, well-intentioned cliches and unresearched facts for hard analysis and specific plans. Reformation in the 1970's comes not from the mouth of a megaphone or even a microphone, but from an artillery of hard research and marshalled evidence. The lesson of Ralph Nader is not the decibel level of his crusades, but the information level of his research. His homework is what makes him so persuasive on the witness stand. I was privileged to watch Rachel Carson closely when she took on the pesticides giants, and it was not her anger or undisciplined scolding that made her "Silent Spring" prevail, but the fact that she got there "firstest with the mostest." All the barrage of vilification from the chemical companies could not prevail against her superbly-crafted, well-aimed arrow of truth.

Your organization, Publi-Cable, has its work cut out for it. Your motives and your parent organization's intent cannot be questioned. Your friends will cheer you and your enemies will tolerate you, if all they have to fear is your rhetoric and your self-righteous pronouncements. What is required is the stamina to stay the course, the documentation of research and a demonstration of competence

that will outlast those who say, "Those are very well-intentioned people, but they have their heads in the clouds." I do not want to underestimate the difficulty of acquiring the proper knowledge in this area because cable is one of the most difficult intellectual problems I have encountered. But all effective sources must be developed and utilized. I am hopeful that your Publi-Cable group will work closely with Bowman Cutter and the Cable Television Information Center which has recently been established at the Urban Institute here in Washington.

Cable television is now just about where the railroads were in the 1870's, when Commodore Vanderbilt immortalized himself with his cynical pronouncement. Today the public is not damned, but rather accepted as a naive participant in the regulatory scenario. The citizens' views are solicited, even listened to. But in the final round, it is that tug-of-war between the special interest players that prevails. Every time a city, by faulty staff work or impatience to detail or corrupt dealing, awards a flawed or flabby contract, every time a franchise is given in perpetuity or for twenty years without proper safeguards, the chance for every other community to make a decent contract is diminished.

What brings me here today is my official concern with communications. All of you are here for more diverse reasons, though with a common denominator, and the struggle over the wired city will be a crucible for all your disciplines. You are educators, and that stretch of coaxial cable between classrooms and among schools may open up new vistas as broad as those of the book and the blackboard.

You are experts in the voting process, and cable could free our political process of the tyranny of campaign spending that so often corrupts a candidate by forcing him to buy exorbitant amounts of time, to reach audiences ten times broader than his voters' constituency.

You are youth leaders, and if you want any evidence of the necessity for a broader spectrum of telecommunications, all you need do is turn on your television set some Saturday morning or any night.

You are city planners, and the effect of cable in the next decade could be as revolutionary as if all the streets and bridges were to be redesigned and redirected.

You are journalists and the impact of the wired city on your profession may be as far reaching as broadcasting is to print.

You are all citizens, many from minority groups, and the effect of all this technology (in search of a policy) will be as profound as most of the solutions to the environment and urban challenges that could so improve the quality of our life.

Your presence here tonight speaks for your concern, but your mission will fail if all that emerges from your deliberations is still another round of mimeographed handouts and slogans about access. What you must do at the national level, and particularly within the communities where your live, is immerse yourselves in the decision-making process.

You must come to that bargaining session steeped in the lessons of fifty years of regulatory giveaways and armed with the spirit of the law, the facts of the technology, and the imagination to out-man those whose power comes from the mouth of their lobby and the persuasiveness of their venture capital.

If you fail, you will have the illusory satisfaction of hearing future generations say: "Why didn't someone tell us about all this when there was still time?" Your job is to <u>say it now</u>, to <u>document it now</u>, when you can still make a difference. You can, you know.